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Previous references. 1922. (G 7)

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Later references.

Reserve

2/11/23

GENERAL AND REVENUE SECRETARIAT.

P 7-E

Serial Nos. 2

Part B for Decr 1922

SUBJECT

Application of Mr R. Krishna Rao of Madras for issue of counterpart notes in favour of his minor son

19/91 Fe 2900 d 22-12-1922 to the Comptroller States that there is no objection to the issue of the notes asked for.

BN 11/6/23

Please address all future communications to the Comptroller to the Govt. of H. H. the Maharaja of Mysore.
In reply to this Comn. please refer to
No. S.L.1492. Encl Two.

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Dated, Bangalore, the 6th October *1922*.

19217

DIARY No. 1272

10 OCT 1922

FROM

T. SATYARAJ CHETTY, ESQ., B.A.,
Comptroller to the Government of His Highness the Maharaja of Mysore.

To

M. N. Krishna Rao Esq., B.A.,
Secretary to the Government of Mysore.
Financial *Department.*

SIR,

I have the honor to forward herewith a copy of letter dated the 23rd August 1922 from Mr. R. Krishna Row of Madras applying for the issue of counterpart notes not negotiable in favor of his minor son.

Under Article 364 (a) Mysore Account Code, Volume I, which corresponds to Rule 6 of the Rules under the Mysore Government Securities Regulation, IX of 1894, the Comptroller may issue counterpart notes not negotiable, in the case of any note which is the property of a minor unrespresented by any person having power to negotiate it or which belongs to an estate in which administration is limited to interest.

But in the case under reference, the above conditions are not fulfilled. The minor is represented by his father who has full power to negotiate the pro-notes as he may deem proper.

The Government Advocate was requested to furnish his opinion in the matter and he states that the Comptroller has every authority to comply with the request made by Mr. Krishna Row. I enclose a copy of his letter.

The

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C. O 45–Rec. —]

.....Department

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FROM

T. SATYARAJ CHETTY, ESQ., B.A.,

Comptroller to the Govt. of
H. H. the Maharaja of Mysore.

To

.....ESQ.,

Secretary to the Govt. of Mysore,

Dept.

Dated

Despatched

Received

No.....

Subject matter.

The following points require to be considered before settling the question:-

(i) The amount proposed to be invested is the sale proceeds of one of the family properties.

(ii) The investment is proposed and the issue of a counterpart note is requested because "the purchaser is anxious to safeguard his own interests by purchasing the necessary paper in the name of the said minor, so that the said minor on attaining majority may accept the necessary paper and ratify the present sale."

It is therefore quite clear that it is not to protect the interests of the minor, but that of the purchaser, that counterpart notes are asked for .

(iii) The minor does not appear to have become entitled to possess any portion of the property during the life time of the father by any means allowed by law

(iv) The applicant states that he has only one son aged ~~merely~~ nearly $4\frac{1}{2}$ years and it is not known how the case would stand in the event of another son or sons being born to him.

(v) It is quite possible that the alienation of ancestral property may be irregular and it cannot be foreseen whether the matter will have to be contested in a court of law.

(vi) The issue of a counterpart note on behalf of a minor when his natural guardian (the parent) is alive, is evidently not contemplated in Article 364 (a) as it would be not only unnecessary but presupposes a condition which does not exist for the issue of such notes. The rule is intended to afford protection to the minor of what is his property by inheritance and he cannot be recognised as the inheritor of the property owned by the father during the lifetime of the latter.

The discretionary power of issuing counterpart notes is vested in the Comptroller, but, however, in view of the opinion expressed by the Government Advocate, I solicit orders of Government if counterpart note may be issued in favor of the minor son as desired by Mr. R. Krishna Rao. I personally think that the

application

application ought to be rejected.

I have the honor to be,

Sir,

Your most obedient servant,

J. Satyanarayana

Comptroller.

SAM

Extract opinion of Government Advocate.

I see no objection to the issue of bonds subject to the limitations proposed, when the applicant who is prepared to invest money is also anxious that the pro:notes should be issued in the name of his minor son limiting his own power to the mere drawing of interest, the Comptroller has clearly every authority to comply with the request. The article in question is intended to safeguard the interests of minors unrepresented by proper ~~guardins~~ guardians and the principle laid down in that article may well be extended to a case like the present.

' Extract'

Superintendent,
~~Records~~ Section
State Loans.

9/10

Letter dated 23rd August 1922 from Mr. R. Krishna Rao B.A.,B.L., High Court Vakil, Madras, to the Comptroller, Mysore Government, Bangalore.

Your reply No.1014 C.S. dated 21st August 1922 to hand yesterday with thanks. As mentioned therein, under rule 6 of the Mysore Government Securities Regulation, Government issue "Counterpart Notes not negotiable by endorsement" in the case of notes which are the property of minors unrepresented by any person having power to negotiate,------.

2. As explained below I may state that under the said rule 6 the Mysore Bonds to be purchased for Rs.25,000/- in the name of the said minor, are the property of a minor, unrepresented by any person having the power to negotiate.

3. I, R. Krishna Row, as the father of my only minor son K. Raghunath Row born on 28th February 1918, desire to invest Rs.25,000/- in the Mysore Government 6½% or 6¼% Bonds and purchase the necessary paper in the name of the said minor. One of my family estates was sold and the purchaser of it has detained Rs.25,000/- as and towards the share of the said minor. The purchaser is anxious to safeguard his own interests by purchasing the necessary paper in the name of K. Raghunath Row the said minor, so that the said minor on attaining majority may accept the necessary paper and thus ratify the present sale, and he is willing that the interest thereon be paid to me the father and natural guardian of the said minor during minority. And I, as father of the said minor, am willing to have my powers thus limited to the drawing of interest alone on the said paper during his minority and I am not in any way desirous to deal with the paper during the said period of his minority. There is no certificate or order of Court under the Guardian and Wards Act VIII of 1890 or its corresponding Mysore Regulation duly constituting me as the legal guardian of the said minor. The main purpose of such a certificate is to safeguard the interests of a specified minor during his minority.

While no party but a Court alone can possibly limit the powers of the father of the specified minor, there is nothing to prevent the father of the specified minor from himself limiting his own powers, in the very interests of the minor himself, to the drawing of interest alone during minority as in the present instance, even without a certificate or an order of Court. And surely it could not be said that this course would not be acceptable to your office.

4. Under these circumstances I intend purchasing Mysore Bonds for Rs.25,000/- in the name of my only minor son K. Raghunath Row and forwarding them to your Office for issue of "Counterpart Notes not negotiable by endorsement," without any certificate or order of Court under the Guardian and Wards Act or its corresponding Mysore Regulation duly constituting me (R. Krishna Row) as the legal guardian of my only minor son K. Raghunath Row; and further requesting then that during the said minority the interest on the said Counterpart Notes be paid to me as father and natural guardian of the said minor and the original notes themselves be handed over to the said minor on his applying to your office after he attains majority.

5. If I do so, I desire to know whether your office would dispense with the said certificate or order and issue the said counterpart notes for the necessary paper that may be so forwarded to your office. I may add that if a certificate of identity is required of me by your office, that, I think, can easily be secured from any reliable quarter the office may suggest and is practicable. On my receipt of your favorable reply I shall arrange to purchase the necessary paper and send them up to your office for the said purpose.

6. I request you will kindly give this letter your best attention and favor me with sending your reply at your early convenience and oblige me thus.

7. Expecting receipt of your reply at an early date with thanks.

"C O P Y"

Superintendent,
~~Records~~ Section.

SAM

State Loans

9/10

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Subd for orders. The comptroller states that for reasons given on page 2 of his letter (in regard to) the Registrar for the issue of counterpart notes not negotiable in favour of his minors should be rejected

Secy 12.10.22 12/10 Please put up a draft replying saying that the case may be disposed of in accordance with the rules on the point

21/10/22

Subd with Secy's for reasons stated by Comptr. issue of counterpart notes in this case is not permissible

Secy 25.10.22 25/10 H.C. Gray

25/10/22

Page 3

One Mr. R.Krishna Rao of Madras requests that certain bonds of our loan issues which belong to him may be issued in the name of his minor son in the special form called "counterpart note not negotiable". The issue of this form of notes is governed by Rule of the Rules under the Securities Regulation and Art. 364 A., M.A.C., Vol.L. The Comptroller considers that the issue of such notes in favour of a minor whose natural guardian and father is alive, is not admissible under the rule. The Government Advocate

NOTE.—Contn. sheet.

Serial No.

Advocate, however, considers that they can be issued. The Comptroller's objection is that a counterpart note can be issued only when the note is the property of a minor unrepresented by any person having power to negotiate it. The words underlined are not found in Rule but they appear in Art.364 A., M.A.C., Vol. I, which lays down the procedure to be followed in issuing notes of this kind. The qualifying words underlined above have been introduced in Art.364, M.A.C., Vol.I, only to distinguish counterpart notes from those detailed in the preceding articles of the Code in which parties other than the last holders of bonds are competent to negotiate them, e.g., under succession and guardianship certificates obtained from competent Courts of law.

The natural guardian in this case prefers to forego his rights to negotiate the notes and requests that the special form of ~~the~~ note intended for safeguarding the interests of ~~the~~ minors may be issued. I agree with the Government Advocate and think that the notes asked for can be issued. The other points raised by the Comptroller are not, I think, material for the consideration of the question of the issue of counterpart notes. If the bonds stand in the name of R. Krishnarao or his minor son and if the chain of endorsements on the bonds shows that he or his son is the rightful owner, it is not necessary for us to investigate how he

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he got the money for purchasing the bonds and whether such money did or did not form part of his family property. These are matters which concern the members of the family and disputes, if any, about them will have to be settled by taking them up to Civil Courts. The point raised by the Comptroller is a legal one and I, therefore, submit the case to the Dewan through the Second Member.

30-11-22

3500
1-12-22

2nd member) Papers submitted for kind perusal

11/12

DEWAN'S OFFICE
Read. on DEC 12 1922
Reg. No. 3494

Dewan) The opinion of the G.P.C. may be accepted.

13.12

Done orders

13.12.22

Draft sent

13/12

14/12

NOTE—Contn. sheet.

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

No H 2900 of 22 Dec 1922

To The Comptroller. 1922

Sir, G.F 5-22-19(a)

With refee to your letter No 81 1492 D 6.10.22 ~~request~~ in regard to ~~ing orders~~ on the application of Mr. R. Krishna Rao stating ~~applying~~ for issue of Counterpart notes, not negotiable, in favour of his minor son, I am directed to state that ~~for see no objection to the issue of the notes asked for~~ ~~may be issued inasmuch~~ as the natural guardian ~~prefers~~ to give his rights to negotiate the notes & requests that the special form of note intended for safeguarding the interests of the minor may be issued. There is no objection to the issue of the notes asked for. The other points referred to in your letter are not material for the consideration of the question of issue of counterpart notes. If however the bonds show in the name of Mr. R. Krishna Rao or his minor son and if the character endorsements in the bonds show that he is the rightful owner, I have no objection as I have kept the money for purchasing the bonds whether such money did or did not form part of his family property is not necessary

WD 2230—GPB—1,00,000—23-7-20